

## Remarks

### **1. Summary of the Office Action**

In the final office action mailed October 16, 2007, the Examiner again rejected the claims under 35 U.S.C. § 102 as being allegedly anticipated by U.S. Patent Application No. 2003/0119536 (Hutchinson).

### **2. Status of the Claims**

Pending are claims 6-11, 13-18, 22-23, and 25-30, of which claims 6, 16, 22, and 27 are independent and the remainder are dependent.

### **3. Response to Rejections**

#### **a. Claims 6-11, 13-18, 22-23 and 25-26, and 28-30**

Of these claims, claims 6, 16, and 22 are independent. Each of these claims recites, among other elements, the function of treating an incoming media stream as an implicit denial of a floor request. For example, claim 6 recites an implicit floor control method in which a user station sends a first media stream to a communication server as an implicit floor request, begins to receive a second media stream from the communication server while sending the first media stream to the communication server, and treats receipt of the second media stream as an implicit denial of the implicit floor request. Claim 16 recites an implicit floor control method in which a user station receives a user request for the floor while the user station is receiving an incoming media stream from the communication server, and the user station treats its receipt of the incoming media stream from the communication server as an implicit denial of the user's request for the floor. And claim 22 recites a cellular mobile station that includes a processor programmed to send a first media stream as an implicit floor request to a communication server

and to treat receipt of a second media stream from the communication server, while sending the first media stream to the communication server, as an implicit floor denial.

Applicant submits that the rejection of these claims as being anticipated by Hutchinson is improper and should be withdrawn, because Hutchinson fails to teach implicit denial of a floor request. Rather, Hutchinson merely teaches explicit denial of a floor request.

Hutchinson discloses an arbitrated communications system in which a user transmits to an arbitration controller a request for access and audio representing a desired audio communication. *See* Hutchinson, at paragraph 0019. According to Hutchinson, the user does not wait for an indication that an access request has been granted, because audio is transmitted following or integrated with the access request. *Id.* at paragraph 0019. However, Hutchinson discloses that if the access request is denied, "the arbitration controller sends an unfavorable acknowledgement to WCD 2." *Id.* at paragraph 0037. The "unfavorable acknowledgement" of Hutchinson seems to be a particular denial message. *Id.* at paragraph 0032 (describing sending of a denial or grant of the request to the user's device). While Hutchinson clearly teaches sending of audio as a floor request (*id.* at paragraph 0059), Hutchinson never suggests anything about receiving audio as an implicit floor denial. More particularly, Hutchinson fails to teach treating an incoming media stream as an implicit floor denial as recited in Applicant's claims, since Hutchinson seems to instead teach transmission of an express, particular denial message in the form of an "unfavorable acknowledgement."

Because Hutchinson fails to disclose treating an incoming media stream as an implicit denial of a floor request as recited in claims 6, 16, and 22, Hutchinson fails to anticipate claims 6, 16, and 22. Accordingly, Applicant submits that claims 6, 16, and 22 are allowable. Further,

Applicant submits that dependent claims 7-11, 13-15, 17-18, 23, 25-26, and 28-30 are allowable for at least the reason that they depend from the allowable independent claims.

Furthermore, claims 28-30 further distinguish over Hutchinson by more specifically reciting that the received second media stream or incoming media stream that is treated as a floor denial comprises an RTP stream. Although RTP streams are known in the industry, Hutchinson fails to teach treating receipt of such a stream as an implicit floor denial. Thus, for this reason as well, Applicant submits that claims 28-30 are allowable.

In rejecting the claims, the Examiner seems to have inadvertently misinterpreted the teachings of Hutchison. Most significantly, the Examiner has incorrectly interpreted Hutchison as teaching that, while WCD 2 is sending the first media stream to the communication server, WCD 2 begins to receive a second media stream from the communication server and treats its receipt of the second media stream from the communication server as an implicit denial of the implicit floor request.

First, the Examiner cited paragraph 0035 of Hutchison for a teaching that WCD 2 begins to receive a second media stream from the communication server while WCD 2 is sending the first media stream to the communication server. However, as the Examiner rightly admitted, that paragraph of Hutchison involves the server sending an *acknowledgement* to WCD 2, and there is no teaching in Hutchison that WCD 2 would treat the receipt of an *acknowledgement* as a denial of its floor request. Furthermore, Hutchison expressly teaches in paragraph 0035 that the acknowledgement indicates that the floor request is *granted* rather than denied, so the thought that the acknowledgement would be treated as a denial of a floor request is contrary to the teachings of Hutchison.

Second, the Examiner then cited paragraphs 0037 and 0038 of Hutchison for a teaching that WCD 2 treats its "receipt of the second media stream from the communication server as an implicit denial of the implicit floor request." However, a reading of paragraphs 0037 and 0038 of Hutchison makes clear that all WCD 2 receives as a denial of its floor request according to Hutchison is a mere "unfavorable acknowledgment," which, as noted above, appears to be a specific denial message. There is no teaching in Hutchison that the unfavorable acknowledgement message of Hutchison is a second media stream as presently claimed.

In relying on paragraphs 0037 and 0038 of Hutchison, the Examiner asserted that Hutchison's disclosure of WCD 2 generating an indication of the unfavorable acknowledgement, as a visual, audible or tactile indication to the user "reads on media stream." (*See* final office action, at page 3, lines 1-2). However, this is clearly not the case. According to Hutchison, WCD 2 generates the visual, audible, or tactile indication of the unfavorable acknowledgement that WCD 2 receives from the arbitration controller. Yet that does not mean (expressly or inherently) that the arbitration controller somehow sent to WCD 2 a visual, audible, or tactile indication of unfavorable acknowledgement. Rather, Hutchison teaches that WCD 2 receives the unfavorable acknowledgment and then *generates* an alert to notify a user. The manner by which WCD 2 alerts a user that WCD 2 has received an unfavorable acknowledgement is inapposite and does not change the fact that Hutchison fails to teach the claim function of beginning to receive a second media stream from the server while sending the first media stream to the server, and treating receipt of the second media stream from the server as an implicit denial of the implicit floor request.

The Examiner's error is underscored by the rationale that the Examiner set forth for rejecting claims 28-30, which recite that the second media stream comprises a Real-time

Transport Protocol (RTP) stream. In rejecting those claims, the Examiner again relied on paragraph 0038 of Hutchison, where Hutchison states that, upon receipt of an unfavorable acknowledgement from the arbitration controller, WCD 2 may generate an indication of the unfavorable acknowledgement as a visual, audible, or tactile indication to the user. The Examiner construed this generation of the indication of unfavorable acknowledgement to read on the claimed RTP stream.

With all due respect, this interpretation of Hutchison is erroneous for at least two reasons. First and foremost, again, the act of WCD 2 alerting a user does not constitute (expressly or inherently) the claimed receipt of a second media stream from the server. Rather, Hutchison makes clear that the WCD generates the alert to the user as an indication of the received unfavorable acknowledgement from the arbitration controller. Thus, the WCD receives the unfavorable acknowledgement message from the arbitration controller and responsively alerts a user of that fact. Second, Hutchison does not teach that the unfavorable acknowledgement is received as an RTP stream, and, more specifically, Hutchison does not teach receiving a second media stream comprising an RTP stream from the server while sending the first media stream to the server, and treating receipt of the second media stream comprising the RTP stream from the server as an implicit denial of the implicit floor request.

Consequently, the Examiner has not established anticipation of any of claims 6-11, 13-18, 22-23 and 25-26, and 28-30, and so Applicant again submits that these claims are allowable.

**b. Claim 27**

Claim 27 recites an implicit floor control method for a full-duplex packet-based real-time media session in which a plurality of user stations exchange media via a communication server. According to the claim, the communication server grants levels of floor to two or more user

stations in response to receipt of media streams from the user stations and based on an order in which the communication server begins to receive the media streams from the user stations. The claim then explains that granting levels of floor to two or more user stations comprises granting a highest floor level to a first user station from which the communication server receives a media stream and granting a next floor level to a next station from which the communication server receives a media stream when the first user station currently holds the highest floor level.

An example of this method is described in the specification at pages 19-20, explaining for instance that "the server could even be arranged to grant levels of floor to various participants in a full-duplex session. For example, the server could output most loudly the media from a station with a highest floor level, and the server could incrementally attenuate the media that it outputs from each other participating station having a successively lower floor level."

Applicant submits that claim 27 patentably distinguishes over Hutchinson and is therefore allowable.

At best, Hutchinson teaches the concept of granting "broadcast priority" (i.e., floor) to a single device at a time, and broadcasting to each other device the audio from a device to which broadcast priority is granted. *Id.* at paragraph 0034. In this regard, Hutchinson discloses possible use of a priority table that may indicate whether or not to grant broadcast priority to a given device. *Id.* at paragraph 0054. However, the issue in Hutchinson is still merely whether to grant or deny a given device's request for the floor. Hutchinson fails to disclose anything about having or granting levels of floor, and Hutchinson specifically fails to disclose the method of claim 27.

In the final office action, the Examiner again relied on Hutchison's teaching of "broadcast priority" as an alleged teaching of the claimed granting levels of floor. However, at best, the

Examiner has merely pointed out Hutchison's teaching that when an access request is granted, the arbitrating device relinquishes control of the broadcast link to the requesting device (i.e., gives up the floor), which the Examiner construed to be the "highest floor level." It thus seems that the Examiner has interpreted "the floor" to be the "highest floor level." Yet even if we accept this interpretation for sake of discussion, the Examiner has not pointed to any further floor level in Hutchison. In Hutchison, a user station either has the floor or it does not have the floor. There are no levels, and there is no teaching in Hutchison of the claimed granting of a highest floor level to a first user station and granting a next floor level to a next station when the first user station currently holds the highest floor level. The Examiner has not pointed to any such disclosure in Hutchison, because no such disclosure exists in Hutchison.

Because Hutchinson does not disclose the invention recited by claim 27, Hutchinson does not anticipate claim 27. Therefore, Applicant submits that claim 27 is allowable.

#### **4. Conclusion**

In view of the foregoing, the Applicant submits that all of the pending claims are allowable, and Application therefore respectfully requests reconsideration and allowance of the claims.

Should the Examiner wish to discuss this case with the undersigned, the Examiner is invited to call the undersigned at (312) 913-2141.

Respectfully submitted,

**McDONNELL BOEHNEN  
HULBERT & BERGHOFF LLP**

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By: /Lawrence H. Aaronson/  
Lawrence H. Aaronson  
Reg. No. 35,818